

DOCKET FILE COPY ORIGINAL

Federal Communications Commission

DA 96-1672

BY **Before the**
Federal Communications Commission
Washington, D.C. 20554

**Amendment of Section 73.202(b)
Table of Allotments,
FM Broadcast Stations.
(Romney, West Virginia)**

[illegible]

MM Docket No. 94-137
RM-8532

Adopted: October 4, 1996;

Released: October 11, 1996

1. The Commission has before it the petition for reconsideration of the Report and Order ("R&O") in this proceeding, 10 FCC Rcd 6727 (1995), filed by The West Virginia Schools for the Deaf and the Blind ("WVSDB"), licensee of noncommercial educational Station WJGF, Channel 201A, Romney, West Virginia.¹ For the reasons discussed below, we grant the petition for reconsideration.

2. Background. WVSDP filed a petition for rule making requesting the substitution of Channel *281A for Channel 201A at Romney, its reservation for noncommercial educational use, and the modification of the license of Station WJGF accordingly. WVSDP claimed that the substitution was warranted because there were no channels available on the reserved band that would not cause potential interference with Station WJAC-TV, Channel 6, Johnstown, Pennsylvania. In the R&O, we denied the proposal for failure to meet the Commission's criteria for reserving a commercial channel for noncommercial educational use. Our engineering analysis determined that the Grade B contour of Station WJAC-TV at Johnstown, Pennsylvania, was 103.97 kilometers (64.6 miles), and Romney was located 115.8 kilometers (72 miles) south of the station's transmitter site. Therefore, using center city reference coordinates for Romney, we

¹Public Notice of the filing of the petition for reconsideration was given on September 7, 1995, Report No. 2097.

concluded that use of reserved Channels 213A- 220A was not precluded by potential interference with Station WJAC-TV at Johnstown, Pennsylvania.

3. Petition for Reconsideration. WVSDB argues that the staff erred in finding that the proposal did not meet the criteria for reserving Channel *281A at Romney, West Virginia, for noncommercial educational use. WVSDB asserts that "sufficient justification" exists for reserving the channel for noncommercial use since there are no available channels on the reserved band that would not be precluded for use because of potential interference with Station WJAC-TV, Channel 6, Johnstown, Pennsylvania. Therefore, WVSDB requests that we reconsider our decision.

4. Discussion. After revisiting our decision in the R&O, we will grant the WVSDB petition for reconsideration. Channels 213A-220A are not precluded for use by potential interference to VHF Television Channel 6 in Johnstown, Pennsylvania. Rather, an engineering analysis reveals that these channels are not available/usable because they do not conform with the Commission's domestic technical requirements. We acknowledge that the Commission generally prefers that noncommercial educational stations operate within the reserved portion of the FM band (Channels 201-220). However, the exceptions have been made where channels in the noncommercial educational band are not available because of foreign allotments (Canadian or Mexican), or potential interference to operation on VHF Television Channel 6. Here, twelve of the twenty channels in the reserved portion of the FM band would cause potential interference to Station WJAC-TV, Channel 6, Johnstown, Pennsylvania. As such, justification exists for reserving a channel on the commercial band (Channels 221-300) for noncommercial educational use.

5. Therefore, we believe the public interest would be served by substituting Channel *281A for Channel 201A at Romney, West Virginia, and reserving the channel for noncommercial educational use, since it would eliminate interference with Station WJAC-TV, Channel 6, Johnstown, Pennsylvania, and would enable Station WJGF to provide the community with its only noncommercial educational service. An engineering analysis has determined that Channel *281A can be allotted to Romney in compliance with the Commission's minimum distance separation requirements with a site restriction of 2.7 kilometers (1.7 miles) north to avoid a short-spacing to the licensed site of Station WKCY-FM, Channel 282B, Harrisonburg, Virginia.² As requested, we also modify the license of Station WJGF to specify operation on Channel *281A in lieu of Channel 201A at Romney, West Virginia.

²The coordinates for Channel *281A at Romney are North Latitude 39-22-00 and West Longitude 78-44-50.

6. Accordingly, pursuant to the authority found in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED, That effective November 25, 1996, the FM Table of Alotments, Section 73.202(b) of the Commission's Rules, IS AMENDED, with respect to the community listed below, to read as follows:

<u>City</u>	<u>Channel No.</u>
Romney, West Virginia	261A, *281A

7. IT IS FURTHER ORDERED, That pursuant to Section 316(a) of the Communications Act of 1934, as amended, the license of The West Virginia Schools for the Deaf and the Blind, for Station WJGF, Romney, West Virginia, IS MODIFIED to specify operation on Channel *281A in lieu of Channel 201A, subject to the following conditions:

- (a) Nothing contained herein shall be construed as authorizing any change in the license of Station WJGF, BLED-930924KA, except the channel as specified above. Any changes, except for those so specified under Section 73.1690 of the Rules, require prior authorization pursuant to an application for construction permit (FCC Form 301), specifying the new facility.
- (b) Program tests may be conducted in accordance with the provisions of Section 73.1620 of the Rules, PROVIDED the transmission facilities comply in all respects with license BLED-930924KA, except for the channel as specified above and a license application (FCC Form 302) is filed within 10 days of commencement of program tests.

8. Accordingly, IT IS FURTHER ORDERED, That the Petition for Reconsideration filed by The West Virginia Schools for the Deaf and the Blind, IS GRANTED.

9. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

10. For further information concerning this proceeding, contact Sharon P. McDonald, Mass Media Bureau (202) 418-2180.

FEDERAL COMMUNICATIONS COMMISSION

**Douglas W. Webbink
Chief, Policy and Rules Division
Mass Media Bureau**